IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6308 of 1989

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT VIDYAPITH SAMAJKARYA SANGATHAN

Versus

STATE OF GUJARAT

Appearance:

MR GIRISH PATEL for Petitioner

MR H.L.Jani,Asstt.Govt.Pleader Respondent No. 1, 2, 3

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI

Date of decision: 11/08/2000

ORAL JUDGEMENT

1. This is a petition by Gujarat Vidyapith Samajkarya Sangathan, through its Secretary. The grievance made before this Court is that while adopting the procedure of recruitment to the post of Probation Officer in the State service in the Department of Social

Welfare, vacancies are not notified to the University Bureau of Information where names of all post-graduate students belonging to ST/SC are registered.

2. On notice being issued, reply affidavits have been filed by respondent No.2- Director of Social Defence and respondent No.3- Director of Employment, Government of Gujarat.

3. The stand taken in their replies is that qualifications for recruitment to the post of Probation Officer are laid down in the statutory rules framed under Article 309 of the Constitution of India. Essential qualification for the post is Degree of a recognised University, preferably in Social Science with Sociology, Psychology or Economics as principal subjects. Desirable qualifications are experience of social welfare institution. There are also preferences indicated to be given to candidates who possess Post-graduate Degree of Master of Social Work or Diploma in Social Work or Social Service Administration preferably with specialisation in criminology, juvenile delinquency and correctional administration or specialisation in Family and Child Welfare of a recognised University or Institute of Social Work. There are also preferential qualifications indicated in Rule 3 (c) of the recruitment to which reference is not required to be made.

4. On behalf of the respondents, it is stated that for the post of Probation officer, no public advertisement is issued , but vacancies are notified to the Employment Exchange under law applicable for making public appointments. It is submitted that statutory requirement of notifying the vacancies to the Employment Exchange has been fulfilled and merely because some of the eligible candidates having higher qualifications of Master Degree are registered with the University Bureau of Information, notification of vacancies to the Bureau is not at all a requirement of law.

5. After hearing learned counsel appearing for the petitioner union and the learned AGP, prima facie, this court finds no justification or logic in the stand taken on behalf of the respondents that candidates who possess higher qualifications and are registered with University Bureau of Information cannot complain that vacancies should also be notified to the Bureau so that their candidature may also be sponsored and considered.

6. It is true that University Bureau of Information is registering the names of all post-graduates including

those belonging to SC/ ST categories. The difficulty with the post-graduates, as is explained to court, is that their names are not registered with Government Employment Exchange as it allows registration of unemployed graduates. Post-graduates are registered with the University Bureau of Information. The minimum qualification laid down for the post of Probation Officer is graduate degree, but preference is to be given to a candidate possessing post-graduate degree with specialisation in subjects dealing with social work. The policy of recruitment adopted by the respondents deprives post-graduates from being sponsored and considered . As vacancies are never notified to the University Bureau of Information, post-graduates do not get knowledge of vacancies as their names are not registered with the Government Employment Exchange.

7. In the matter of recruitment to pubic posts, maximum publicity is required to be given so that all eligible candidates with essential and higher qualifications are able to compete for the post. The stand taken on behalf of the respondents is neither reasonable nor just. Since the matter was brought in the year 1989, the procedure so far invoked, cannot be directed to be upset and there is no real challenge against the appointments already made. For future, however, this court directs the respondents that as and when vacancies arise for filling up post of Probation Officer or other posts in the Department of Social Welfare, available vacancies shall be notified both to the Government Employment Exchange as also to the University Bureau of Information so that graduates and post-graduates equally get chance of getting sponsored and for seeking consideration of their candidature.

8. Consequently, with the aforesaid directions, petition is partly allowed. Rule is made absolute to the aforesaid extent. No order as to costs.

(D. M.Dharmadhikari,C.J)

parekh